

REMARKS

The Office Action dated October 1, 2008 has been carefully considered. Claims 1, 3, 4, 7, 9, 12, 14, 20-24, 28, 31 and 33 have been amended. Claims 1-40 are in this application.

The previously presented claims 21-23 were rejected under 35 U.S.C. § 112 as being enabling for the treatment of cancer, does not reasonably provide enablement for prevention or the prophylaxis of the same. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. The claims have been amended to be directed to the treatment of cancer. Accordingly, withdrawal of this rejection is respectfully requested.

The previously presented claims were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent Application Publication No. 2003-0109697 to Shepard et al.

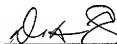
Shepard et al. discloses compounds where, using the nomenclature of Formula 1 of the present application, Ar is disclosed to be unsubstituted phenyl and, using the nomenclature of Shepard et al., R₂ and R₃ are independently the same or different and are selected from the group consisting *inter alia* of H and OH. (See claim 1 of Shepard et al.) Specific compounds disclosed in, for example, claims 7-26 in Shepard et al. have R₂ as OH and R₃ as H, as well as Ar as unsubstituted phenyl. Thus, Shepard et al. using the nomenclature of Formula I of the present invention discloses specific compounds where n is 1, X and Y are both H and Ar is unsubstituted phenyl. Such compounds are excluded from the scope of claim 1 of the present invention by the proviso present of that, except where R is CH₂-CH(CH₃)₂ and one of R' and R'' is H and one of R' and R'' is methyl (-CH₃), when n is 1 and X and Y are both H, then Ar is not unsubstituted -C₆H₅.

Amended claim 20 deletes specific compounds, including compound CPS35, that does not comply with the proviso of claim 1. Accordingly, Shepard et al. do not include each of the limitations of the present claims and the present claims are not anticipated by Shepard et al.

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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